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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,138	03/06/2001	Robert Olan Keith JR.	ABREAU-00102	6011

28960 7590 03/08/2005	**EXAMINER**
HAVERSTOCK & OWENS LLP	NGUYEN, CAM LINH T

162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

ART UNIT	PAPER NUMBER
2161	

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**
Office Action Summary	09/801,138	KEITH, ROBERT OLAN
	Examiner	**Art Unit**	
	CamLinh Nguyen	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 December 2004*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-15,17-24,49,52-63,65-73,76-87 and 89-96* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4-15,17-24,49,52-63,65-73,76-87 and 89-96* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All   b)☐ Some *   c)☐ None of:

       1.☐ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Applicant's amendments to claims 1 - 96 are acknowledged. Consequently, claims 1, 15,

49, 63, 73, and 87 have been amended; claims 2, 3, 16, 25 - 48, 50, 51, 64, 74, 75, and 88 have

been canceled. Accordingly, claims 1, 4 – 15, 17 – 24, 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96

are currently pending.

2.   Applicant's arguments filed 06/01/04 about Double Patenting rejection have been fully

considered but they are not persuasive.

Double Patenting

1.   Claims 1,4 – 15, 17 – 25, 28 – 39, 41 – 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96 of this

application conflict with claims 1 - 40 of Application No. 09/801,072. 37 CFR 1.78(b) provides

that when two or more applications filed by the same applicant contain conflicting claims,

elimination of such claims from all but one application may be required in the absence of good

and sufficient reason for their retention during pendency in more than one application. Applicant

is required to either cancel the conflicting claims from all but one application or maintain a clear

line of demarcation between the applications. See MPEP § 822.

3.   The nonstatutory double patenting rejection is based on a judicially created doctrine
grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by a patent and to prevent possible
harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.
Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686
F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA
1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
        A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to
overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.   Claims 1,4 – 15, 17 – 25, 28 – 39, 41 – 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96

provisionally rejected under the judicially created doctrine of obviousness-type double patenting

as being unpatentable over claims 1 - 40 of copending Application No. 09/801,072 in view of

Witek et al (U.S. 6,253,188).

This is a provisional obviousness-type double patenting rejection.

The following table shows the claims in '138 that are rejected by corresponding claims in '072

Claims comparison table

'138	'072		
Claims 1, 49, 73, 74	1, 36, 37,		
53, 78		5	
4, 54,	2		
5, 76	3		
6, 52, 77		4	
7, 55, 79		6, 39,	
8, 56, 80		7	
9, 57, 81		8, 38	
10, 58, 82		9	
11, 59, 83		10, 40,	

12, 60, 84	11
13, 61, 85	12
14, 62, 86	13
15, 39, 40, 63, 87,	27
17, 41, 65, 89	28
18, 42, 66, 90	29
19, 43, 67, 91	30
20, 44, 68, 92	31
21, 45, 69, 93	32
22, 46, 70, 94	33
23, 47, 71, 95	34
24, 48, 72, 96	35
25	14
28	18
30	16
31	19
32	20
33	21
34	22
35	23
36	24
37	25

38	26
39	14 & 27
48	35

According to the amendment filed 06/01/04, Applicant canceled claims 2, 3, 16, 26, 27, 40, 50,

51, 64, 74, 75, and 88. As the result, the scope of claims in the instant application is broadened

than the copending application. However, this is not distinct to each other because: it would have

been obvious to one with ordinary skill in the art at the time the invention was made to broaden

the claims in order to increase the scope of the invention without any cost. It also would have

been obvious to one with ordinary skill in the art at the time the invention was made to apply the

teaching of Witek for the missing limitation into the instant application because the combination

would provide the user more flexible in searching for information by using different search

methodologies.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 1, 4 – 15, 17 – 24, 49, 52 – 63, 65 – 73, 76 – 87, and 89 – 96 are rejected under 35

U.S.C. 103(a) as being unpatentable over Witek et al (U.S. 6,253,188) in view of Botto et al

(U.S. 5,604,772).

♦ As per claims 1, 15, 25, 39, 49, 63, 73, 87,

Witek teaches a method of performing a research task within a searchable database comprising:

- "Utilizing a selective one or more search methodologies including keyword search,

   hierarchical search..." See Fig. 1, 7,10. In particular:

   o "A search module" corresponds to the search engine that implemented in Fig. 1.

   o " A search criteria" corresponds to arguments or selections that user enters in Fig.

      7, element 112.

   o " A searchable database" corresponds to database server (Fig. 1, element 20, col.

      9, lines 53 – 55)

   o "One or more matching items" corresponds to the results that sent to user (Fig. 7,

      element 126 – 128).

   o "The search module includes keyword search" See Fig. 10, element 148, col. 29,

      lines 28 – 34.

   o " A hierarchical search" corresponds to "category search" because the categories

      include subcategories that organized in a hierarchical order. See Fig. 4, col. 31,

      lines 4 – 11.

- "A subsequent search" corresponds to a second or third loop of search based on the

   result. See col. 12, lines 28 – 43.

- The Examiner takes Official Notice that it is well known for one skill in the art to

   implement a search module that includes the availability of each search methodologies.

   "A search module" must be implemented in Witek invention in order for the system to

   carry out the processing.

The Examiner takes Official Notice that it is well known for one skill in the art to implement a

search module that includes the availability of each search methodologies into the search system.

A search module must be implemented in Witek invention in order for the system to carry out

the processing.

The Witek reference fails to disclose the dichotomous key search. However, this method search

is a well known in the art. Botto provides an example of it.

Botto teaches that a dichotomous key search is used to search for data in the database 112,

wherein the database is a hierarchical database (See Fig. 5, col. 5, lines 26 – 29).

It would have been obvious to one with ordinary skill in the art at the time the invention was

made to apply the teaching of Botto into the invention of Witek because the combination would

reduce the memory access when using binary search, and providing user more search

methodologies.

♦ As per claims 28, 53, 78, the combination of Witek and Botto disclose:

- " The search module further comprises a parametric search capability" See Fig. 10,

    elements 154, 158, 160, 142, col. 30, lines 10 – 29 of Witek.

- " The utilized search methodology is the parametric search, the search criteria is one or

    more set parameters, and further wherein the parameters are set by a user" See Fig. 10,

    elements 154, 158, 160, 142, col. 30, lines 10 – 29 of Witek. As shown in Fig. 10, a user

    can set the values for parameters such as date, the range price, or number of room.

♦ As per claims 4, 29, 54, the combination of Witek and Botto disclose:

- "The search criteria is one or more keywords input by a user" See Fig. 10, element 148,

    col. 29, lines 28 – 34 of Witek.

♦ As per claims 5, 30, 64, 76, the combination of Witek and Botto disclose:

- "The utilized search methodology is the hierarchical search, the search criteria is selected one of a list of one or more directory items" " A hierarchical search" corresponds to "category search" because the categories include subcategories that organized in a hierarchical order. See Fig. 4, 6 – 7, col. 31, lines 4 – 11 of Witek.

♦ As per claims 6, 52, 77, the combination of Witek and Botto disclose:

- "The utilized search methodology is the dichotomous key search, the search criteria is a selected one of two binary items" See Fig. 3, element 70, col. 16, lines 27 – 50, Fig. 10, element 144 – 146 of Witek. As defined in the Specification a "dichotomous key search" is used to instruct users given in an answer or question dialog, often yes or no answer (Specification, page 18, lines 6 – 8). In fig. 10, Witek also gives the users the options of answer questions by checking the boxes. Therefore, this search option is corresponding to the "dichotomous key search".

♦ As per claims 7, 20, 31, 44, 55, 68, 79, 92, the combination of Witek and Botto disclose:

- "The searchable database is distributed into more than one physical location" See Fig. 1, element 20, col. 9, lines 53 – col. 10, lines 5, col. 25, lines 37 – 44 of Witek.

♦ As per claims 8 – 10, 17 – 19, 32 – 34, 41 – 43, 56 – 58, 65 – 67, 80 – 82, 89 – 91, the combination of Witek and Botto disclose:

- " The steps of utilizing the search methodologies are performed by a server" See Fig. 1, 5A, col. 25, lines 13 – 33 of Witek.

- " Establishing an Internet connection with the server to utilize the search methodologies" See Fig. 5a, element 14, 24, col. 21, lines 15 – 20 of Witek.

◆ As per claims 11 – 12, 21 – 22, 35 – 36, 45 – 46, 59 – 60, 69 – 70, 83 – 84, 93 – 94, the

combination of Witek and Botto disclose:

- "The searchable database is formatted in a directory tree structure" See Fig. 4, col. 18,

    lines 1 – 32 of Witek.

- "The directory tree structure includes nodes ... branches" See fig. 4. Each category

    corresponds to a node. All nodes are linked together.

- "The collection of related data for a particular node is displayed in an encyclopedia like

    format, wherein the encyclopedia like format includes text, graphics, and links to related

    topics" See Fig. 8 – 10, col. 23, lines 44 – 48, col. 24, lines 10 – 16 of Witek.

◆ As per claims 13 – 14, 23 – 24, 37 – 38, 47 – 48, 61 – 62, 71 – 72, 85 – 86, 95 – 96, the

combination of Witek and Botto disclose:

- "Maintaining the node by appropriately adding and deleting data to and from the node"

    See col. 50, lines 4 – 15 of Witek.

- " The step of maintaining the node is performed by a node owner" See Fig. 14, col. 50,

    lines 4 – 15 of Witek. " A node owner" corresponds to the system administrator.

Response to Arguments

6.   Applicant's arguments with respect to claims 1, 4 – 15, 17 – 24, 49, 52 – 63, 65 – 73, 76 –

87, and 89 – 96 have been considered but are moot in view of the new ground(s) of rejection.
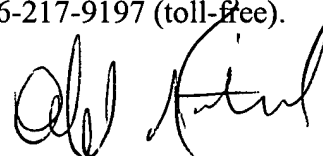
Conclusion

7.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024.

The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Safet Metjahic can be reached on (571) 272 - 4023. The fax phone number

for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cam-Linh Nguyen
Art Unit 2171

ALFORD KINDRED
PRIMARY EXAMINER

LN